

AMENDED IN ASSEMBLY MAY 13, 1998  
AMENDED IN ASSEMBLY MAY 4, 1998  
AMENDED IN ASSEMBLY APRIL 28, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2804**

**Introduced by Committee on Public Employees, Retirement  
and Social Security (Honda (Chair), Migden, Scott, Shelley,  
and Wildman)**

March 12, 1998

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An act to amend Section 22955 of, ~~and to add and repeal~~  
~~Section 24216.8 of,~~ the Education Code, relating to the State  
Teachers' Retirement System, making an appropriation  
therefor, and declaring the urgency thereof, to take effect  
immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2804, as amended, Committee on Public Employees,  
Retirement and Social Security. State Teachers' Retirement  
System: benefits.

~~(1) The State Teachers' Retirement Law permits retired~~  
~~members who retired from service on or before July 1, 1996,~~  
~~to be exempt from specified postretirement school~~  
~~employment limitations under certain circumstances in order~~  
~~to meet the objectives of the Class Size Reduction Program.~~  
~~That provision is repealed on July 1, 1999.~~

~~The bill would permit retired members who retired on or~~  
~~before July 1, 1998, to be employed by school districts to meet~~

~~the objectives of the Class Size Reduction Program. The provision would be repealed on July 1, 2002.~~

(2)

(1) Existing law provides a continuous appropriation from the General Fund to the Teachers' Retirement Fund of a specified amount for purposes of meeting certain obligations and benefit costs.

This bill would provide that when the Teachers' Retirement Fund has achieved full-funding status, ~~some or all of the funds which have been appropriated shall be used by the board for benefit improvements~~ notwithstanding that appropriation, an amount equal to 4.3% of the total of the creditable compensation of the immediately preceding calendar year upon which members' contributions are based shall be continuously appropriated from the General Fund to the Controller for transfer to the Teachers' Retirement Fund for the payment of any benefit increases and other educational objectives that have been approved by the Legislature. The funds for other educational objectives would only be available until January 1, 2004. The bill would make legislative findings and declarations regarding the provisions.

(3)

Section 8 of Article XVI of the California Constitution prescribes the state's minimum funding obligation to school and community college districts. Existing law provides that appropriations to the Teachers' Retirement Fund are not included within that funding obligation.

This bill would provide that the funds appropriated by the bill for benefit improvements shall be included within the prescribed minimum funding obligation.

(2) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares  
2 that:

(1) There have been many recent research studies which indicate that in future years California will face a significant shortage of qualified teachers.

(2) It is in the best public policy interest of the people of California that the Legislature act aggressively to insure that the conditions of employment for teachers are conducive to the growth of the work force.

(3) A substantive and sound retirement plan is a critical aspect of creating a stable and secure employment environment for the teaching profession.

(4) Since its inception by the State Teachers' Retirement System has been in an underfunded status. While the State Teachers' Retirement System has been underfunded, there have been no significant increases in retirement benefits for teachers. Instead, teachers and other interested parties have worked in a collaborative effort with the Legislature to ensure that the system become fully funded.

(5) Pursuant to Section 22955 of the Education Code, the Legislature has required the General Fund to contribute 4.3 percent of prior year teacher payroll to be deposited in the Teachers' Retirement Fund for the purpose of accomplishing full funding of the State Teachers' Retirement System.

(6) A recent study by the State Teachers' Retirement System revealed that retirement benefits for California teachers lag behind those of other states.

(7) The most recent valuation by the State Teachers' Retirement System has indicated that the system is approaching full-funding and should reach that goal within the next three years.

(8) It is therefore appropriate that the Legislature continue to provide ~~some or all of~~ the funding designated by Section 22955 of the Education Code to improve benefits for the past, present, and future members of the State Teachers' Retirement System to ensure the proper growth and stability of the teaching work force in the State of California.

(b) In enacting this act, it is the intent of the Legislature to:

1 (1) Provide California teachers with retirement  
2 benefits which are competitive with other states.

3 (2) Provide a final compensation benefit which best  
4 reflects the highest earnings of State Teachers'  
5 Retirement System members and is commensurate with  
6 the benefit which is predominantly applicable to other  
7 public employees in the State of California.

8 (3) Provide a cost-of-living adjustment that is  
9 compounded annually.

10 (4) Provide appropriate early retirement incentives  
11 which allow workforce flexibility for school districts and  
12 options for teachers who desire to leave the profession  
13 early.

14 (5) Ensure that teachers who have devoted their lives  
15 to the education of the children of California receive  
16 health benefits upon retirement.

17 (6) Provide retirement options which encourage  
18 mature and experienced teaching professionals to  
19 continue their careers after normal retirement age.

20 SEC. 2. Section 22955 of the Education Code is  
21 amended to read:

22 22955. (a) Notwithstanding Section 13340 of the  
23 Government Code, commencing October 1, 1991, a  
24 continuous appropriation is hereby made from the  
25 General Fund to the Controller, pursuant to this section,  
26 for transfer to the Teachers' Retirement Fund. The total  
27 amount of the appropriation for each year shall be equal  
28 to 4.3 percent of the total of the creditable compensation  
29 of the immediately preceding calendar year upon which  
30 members' contributions are based, to be calculated  
31 annually on October 1, and shall be divided into four  
32 equal quarterly payments. The percentage shall be  
33 adjusted to reflect the contribution required to fund the  
34 normal cost deficit when the unfunded obligation has  
35 been deemed to be eliminated by the board based upon  
36 a recommendation from its actuary. If a rate increase or  
37 decrease is required, the adjustment may be for no more  
38 than 0.25 percent per year and in no case may the transfer  
39 exceed 4.3 percent of the total of the creditable

1 compensation of the immediately preceding calendar  
2 year upon which members' contributions are based.

3 (b) The funds transferred pursuant to subdivision (a)  
4 shall first be applied to meeting the normal cost deficit,  
5 if any, for that fiscal year.

6 (c) The transfers made pursuant to this section are in  
7 lieu of the state contributions formerly made pursuant to  
8 Sections 23401 and 23402.

9 (d) For the purposes of this section, the term "normal  
10 cost deficit" means the difference between the normal  
11 cost rate as determined in the actuarial valuation  
12 required by Section 22226 and the total of the member  
13 contribution rate required under Section 22804 and the  
14 employer contribution rate required under Section  
15 23400, and shall exclude (1) the portion for unused sick  
16 leave service granted pursuant to Section 22719, and (2)  
17 the cost of benefit increases which occur after July 1, 1990.  
18 The contribution rates prescribed in Section 22804 and  
19 Section 23400 on July 1, 1990, shall be utilized to make the  
20 calculations. The normal cost deficit shall then be  
21 multiplied by the total of the creditable compensation  
22 upon which member contributions are based to  
23 determine the dollar amount of the normal cost deficit for  
24 the year.

25 (e) Pursuant to Section 22001 and the applicable case  
26 law, the members are entitled to a financially sound  
27 retirement system. The Legislature recognizes that the  
28 system shall, pursuant to this section, receive less funds in  
29 the short term than it would have received under former  
30 Sections 23401 and 23402 (Chapter 282 of the Statutes of  
31 1979). However, it is the intent of the Legislature that this  
32 section shall provide the retirement fund stable and full  
33 funding over the long term.

34 (f) This section continues in effect but in a somewhat  
35 different form, fully performs, and does not in any way  
36 unreasonably impair, the contractual obligations  
37 determined by the court in California Teachers'  
38 Association v. Cory, 155 Cal. App. 3d 494.

39 (g) This section shall not be construed to be applicable  
40 to any unfunded liability resulting from any benefit

1 increase or change in contribution rate that occurs after  
2 July 1, 1990.

3 (h) The amendments to this section during the  
4 1991–92 Regular Session shall be construed and  
5 implemented to be in conformity with the judicial intent  
6 expressed by the court in *California Teachers' Association*  
7 *v. Cory*, 155 Cal. App. 3d 494.

8 ~~(i) Pursuant to subdivision (a) when the Teachers'~~  
9 ~~Retirement Fund has achieved full-funding status, as~~  
10 ~~indicated by the board's actuary, some or all of the funds~~  
11 ~~which have been appropriated for the purposes of this~~  
12 ~~section shall be used by the board to improve the benefit~~  
13 ~~structure of the system. Those benefit improvements~~  
14 ~~shall be consistent with the intent language contained in~~  
15 ~~the act that added this subdivision enacted at the 1977–98~~  
16 ~~Regular Session of the Legislature.~~

17 *(i) Notwithstanding subdivision (a), when the*  
18 *Teachers' Retirement Fund has achieved full-funding*  
19 *status, as indicated by the board's actuary, an amount*  
20 *equal to 4.3 percent of the total of the creditable*  
21 *compensation of the immediately preceding calendar*  
22 *year upon which members' contributions are based shall,*  
23 *notwithstanding Section 13340 of the Government Code,*  
24 *be continuously appropriated from the General Fund to*  
25 *the Controller for transfer to the Teachers' Retirement*  
26 *Fund each fiscal year, for the payment of any benefit*  
27 *increases and for other educational objectives that have*  
28 *been approved by the Legislature. Those benefit*  
29 *improvements shall be consistent with the intent*  
30 *language contained in the act that added this subdivision*  
31 *enacted at the 1997–98 Regular Session of the Legislature.*  
32 *The funds for other educational objectives shall only be*  
33 *available until January 1, 2004. Notwithstanding*  
34 *paragraph (2) of subdivision (f) of Section 41202, the*  
35 *funds appropriated for the purposes of this subdivision*  
36 *shall be included within the General Fund revenues*  
37 *appropriated for school districts and community colleges,*  
38 *respectively.*

39 ~~SEC. 3. Section 24216.8 is added to the Education~~  
40 ~~Code, to read:~~

1     ~~24216.8. (a) The earnings paid to a member who~~  
2 ~~retired for service with an effective date on or before July~~  
3 ~~1, 1998, and who is employed by a school district to~~  
4 ~~provide direct instruction to pupils in grades~~  
5 ~~kindergarten through 12 are exempt from subdivisions~~  
6 ~~(d), (e), and (f) of Section 24214, if all of the following~~  
7 ~~conditions are met:~~

8     ~~(1) The employment is necessary to meet the~~  
9 ~~objectives of the Class Size Reduction Program set forth~~  
10 ~~in Chapter 6.10 (commencing with Section 52120) of Part~~  
11 ~~28.~~

12     ~~(2) All members retired for service whose~~  
13 ~~employment with a school district meets the conditions~~  
14 ~~specified in this section are treated as a distinct class of~~  
15 ~~temporary employees within the existing bargaining~~  
16 ~~unit. The rate of pay for service performed by this class~~  
17 ~~of employees shall be the rate established in accordance~~  
18 ~~with subdivision (b) of Section 24214 and agreed to in the~~  
19 ~~collective bargaining agreement between the employer~~  
20 ~~and the exclusive representative for employees of the~~  
21 ~~school district.~~

22     ~~(3) The school district submits documentation~~  
23 ~~required by the system to substantiate the eligibility of~~  
24 ~~the employment of a member retired for service for the~~  
25 ~~exemption under this subdivision.~~

26     ~~(b) A school district that employs a member retired~~  
27 ~~for service pursuant to this section shall maintain~~  
28 ~~accurate records of the retired member's earnings and~~  
29 ~~shall report those earnings monthly to the system~~  
30 ~~regardless of the method of payment or the source of~~  
31 ~~funds from which the earnings are paid.~~

32     ~~(c) A member who retired for service with an~~  
33 ~~effective date on or before July 1, 1998, and who, between~~  
34 ~~July 1, 1998, and 60 days following the effective date of this~~  
35 ~~section, terminated his or her service retirement~~  
36 ~~allowance and returned to employment that qualifies for~~  
37 ~~the exemption specified in subdivision (a) shall have the~~  
38 ~~right to cancel his or her reinstatement and return to~~  
39 ~~status as a member retired for service as if the service~~  
40 ~~retirement allowance had not been terminated.~~

~~(d) This section shall not apply to the earnings paid to a member retired for service for service performed for a county office of education or a community college district.~~

~~(e) This section shall become operative on July 1, 1999, and shall remain in effect only until July 1, 2002, and as of that date is repealed unless a later enacted statute which is enacted before July 1, 2002, deletes or extends that date.~~

~~SEC. 4.~~

*SEC. 3.* This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

~~In order for school districts to be able to implement this program upon the commencement of the fiscal year, this act must take effect immediately.~~

*In order for enhanced retirement benefits to be available to members of the State Teachers' Retirement System at the commencement of the school year, this act must take effect immediately.*